

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

GLORIA TANKESLY, as personal representative
of JAMES TANKESLY, deceased.

Plaintiffs,

vs.

Case No.
JURY DEMANDED

J.C. PENNEY CORPORATION, INC.

Defendant.

**DEFENDANT J.C. PENNEY CORPORATION INC.'S
ANSWER TO COMPLAINT FOR PERSONAL INJURIES**

COMES NOW Defendant J.C. Penney Corporation, Inc. (hereinafter "JCP"), by and through its counsel of record, Gallagher, Casados & Mann, P.C. (Nathan H. Mann and Harriett J. Hickman), and for its Answer to Plaintiff's Complaint for Personal Injuries, states as follows:

1. Defendant JCP admits the allegations contained in paragraphs 1, 2, 3, and 4 of Plaintiff's Complaint.
2. Defendant JCP denies the allegations contained in paragraphs 5, 6, 7, 8, 9 and 10 of Plaintiff's Complaint.
3. The allegations of paragraph 11 state a legal conclusion not requiring any response. To the extent that such allegations are made against Defendant JCP, Defendant JCP denies the allegations.
4. Defendant JCP denies the allegations contained in paragraphs 12, 13 and 14 of Plaintiff's Complaint.

AFFIRMATIVE DEFENSES

1. Plaintiff has failed to state a cause of action for which relief can be granted against this Defendant as to one or more claims.

2. The injuries and damages alleged, which are expressly denied, were the result of the negligence or wrongdoing of others, including decedent.

3. The injuries and damages alleged, which are expressly denied, were the result of an independent, intervening cause.

4. If Plaintiff was injured as alleged, Plaintiff's injuries and damages were not reasonably foreseeable.

5. Plaintiff has failed to mitigate her damages, thereby barring or reducing such damages.

6. The claims contained in the Complaint may be barred by any or all of the affirmative defenses contemplated by Rule 1-008 of the New Mexico Rules of Civil Procedure. The extent to which Plaintiff's claims may be barred by one or more of said affirmative defenses not specifically set out above cannot be determined until Defendant has had the opportunity to complete discovery.

7. Defendant reserves the right to include additional defenses upon the discovery of additional information.

WHEREFORE, Defendant JCP requests the Court dismiss Plaintiff's Complaint for Personal Injuries, enter judgment in its favor and against Plaintiff, award it its costs, and grant it such other and further relief as may be just and proper.

GALLAGHER, CASADOS & MANN, PC

ELECTRONICALLY FILED

By /s/ Nathan H. Mann

Nathan H. Mann

Harriett J. Hickman

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this **24th** day of **October 2018**, a copy of the foregoing Answer to Plaintiff's Complaint for Personal Injuries was electronically filed through the CM/ECF system, which caused all counsel of record to be served an endorsed copy electronically.

By /s/ Nathan H. Mann